

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA §
§
v. § CRIMINAL NO. 4:06CR16
§
JASON WAYNE ATNIP (15) §

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release.

After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on October 15, 2012, to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Ernest Gonzalez.

On November 16, 2006, Defendant was sentenced by the Honorable Richard A. Schell, United States District Judge, to a sentence of 46 months imprisonment followed by a 5-year term of supervised release. Defendant began his term of supervision on October 24, 2008.

On October 2, 2012, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (the "Petition") (Dkt. 604). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall refrain from any unlawful use of a controlled substance; (2) Defendant shall refrain from excessive use of alcohol and shall not

purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (3) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as the defendant is released from the program by the probation officer; and (4) Defendant shall not commit another federal, state, or local crime.

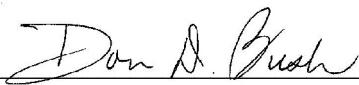
The Petition alleges that Defendant committed the following violations: (1) On April 12, 2011, July 19, 23, September 11 and 20, 2012, Defendant submitted urine specimens that tested positive for methamphetamine. Alere Laboratory has confirmed positive urinalysis results; (2) Defendant failed to submit random urine specimens for testing as instructed on May 12, 14, June 13, 28, July 16, and September 24, 2012, at Pierce and Agnew located in Paris, Texas. Additionally, on September 24, 2012, Defendant failed to attend his outpatient substance abuse treatment session; and (3) On or about July 13, 2012, Defendant was arrested by the Lamar County, Texas, Sheriff's Office for Driving While License Suspended. He posted a \$300 bond and was released. On July 31, 2012, Defendant's \$300 bond was credited toward a \$300 fine which adjudicated the charge.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release and that his supervised release should be revoked.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the October 15, 2012 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of six (6) months, with no supervised release to follow.

SIGNED this 19th day of October, 2012.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE